

# THE AFFORDABLE CARE ACT

Continuing Legal Education for the  
Utah Attorney General's Office

Presented by the  
Utah Insurance Department

November 6, 2013

# 2014 Implementation

## Individuals

- Guarantee issue
- Individual mandate

## Employers

- Employer mandate
- Waiting periods limited to 90 days

## Benefit Changes

- Community rating
- No pre-existing condition exclusions
- Essential health benefits
- Qualified health plans

## Health Insurance Exchanges

- Individual Federally Facilitated Marketplace
  - Advance Premium Tax Credits (APTC)
  - Cost-sharing reductions
- Avenue H, Utah's small employer SHOP exchange
  - Small Employer Premium Tax Credits

# Open Enrollment

Applies to individual and small employer market

No pre-existing condition limitation periods

Insurers must accept all individuals, regardless of health status

Individual open enrollment began October 1, 2013 and continues through March 31, 2014. Future years open enrollment October 15 through December 7

Open enrollment for small employers is available year round

Special enrollment periods outside of open enrollment are available if an individual experiences certain events:

- Moving to a new state
- Divorce
- Marriage
- Having a baby
- Adoption
- Loss of income
- Loss of job
- Loss of coverage

# Got Insurance?

Individual penalty for being without health insurance:

2014

\$95 per adult

\$47.50 per child (up to \$285 for a family)

OR 1.0% of family income, whichever is greater

2015

\$325 per adult

\$162.50 per child (up to \$975 for a family)

OR 2.0% of family income, whichever is greater

2016 and beyond (indexed by inflation)

\$695 per adult

\$347.50 per child (up to \$2,085 for a family)

OR 2.5% of family income, whichever is greater

# Got Insurance? (cont.)

Penalty is pro-rated by the number of months an individual goes without coverage:

- No penalty for a single gap in coverage of less than 3 months in a year
  - Exception for 2014 due to healthcare.gov “technical difficulties” no penalty will be imposed for a person who purchases individual coverage on the Marketplace by March 31, 2014
- Penalty cannot be greater than the national average premium for Bronze level coverage in the Marketplace
- Penalty payable when filing taxes for each year. The penalty for not have coverage in 2014 will be payable in April 2015 when you file your taxes.

# Got Insurance? (cont.)

Who is exempt from the individual mandate?

- You're uninsured for less than 3 months of the year
- The lowest-priced coverage available to you would cost more than 8% of your household income
- You don't have to file a tax return because your income is too low
- You're a member of a federally recognized tribe or eligible for services through an Indian Health Services provider
- You're a member of a recognized health care sharing ministry
- You're a member of a recognized religious sect with religious objections to insurance, including Social Security and Medicare
- You're incarcerated, and not awaiting the disposition of charges against you
- You're not lawfully present in the U.S.
- Those who apply for a hardship exemption

# Employer Mandate

Employers with more than 50 employees who do not offer their employees health insurance will be subject to a \$2,000 tax penalty/ per full-time employee per year if one of their employees is eligible for a tax credit subsidy, excluding the first 30 employees from the assessment.

Employers with 50 or more full-time employees that offer coverage but have at least one full-time employee receiving a premium tax credit through the Individual Marketplace, will pay the lesser of \$3000 for each full-time employee receiving a premium credit or \$2000 for each full-time employee, excluding the first 30 employees from the assessment.

Employers with 200 or more full-time employees must automatically enroll their employees into health insurance plans. However, an employee may opt-out of coverage.



# Essential Health Benefits

Individual and small group plans must cover all 10 categories of the Essential Health Benefits (EHBs)

- Ambulatory patient services
- Emergency Services
- Hospitalization
- Maternity and newborn care
- Mental health and substance use disorder services
- Prescription drugs
- Rehabilitative and habilitative services and devices
- Laboratory services
- Preventive and wellness services and chronic disease management
- Pediatric services, including oral and vision care

Utah's Essential Health Benefits Package based on the benefits of PEHP's Basic Plus Plan, revised to meet minimum requirements of ACA.

Insurers may not impose separate dollar limits within the EHB categories



# Actuarial Value

## Cost-sharing levels:

Bronze: Plan pays on average 60%, enrollee 40%  
Silver: Plan pays on average 70%, enrollee 30%  
Gold: Plan pays on average 80%, enrollee 20%  
Platinum: Plan pays on average 90%, enrollee 10%

## Catastrophic Plan

Limited to your adults under 30 years of age; and those who obtain a hardship waiver from the Marketplace

High deductible, low premium that includes coverage for 3 primary care visits and preventative services with no out-of-pocket costs

## Minimum Essential Benefits

Required level of benefits to exempt an individual from the individual mandate penalty

Applies outside the Marketplace

# Community Rating

- Individual and small employer markets
- No rating based on health status
- Rates may vary only for:
  - Age limited to a maximum age variation of 3:1 for ages 21 to 64
  - Family composition based on the premiums for each family member (limited to the first three children under the age of 21)
  - Geographic rating areas based on the individual's address; or for employer coverage, the employer's primary place of business
  - Tobacco use with a maximum rate up of 1.5:1
    - In the small employer market, a carrier may impose the tobacco rating factor only in connection with a wellness program
- Significantly impacts rates for younger/healthier enrollees

# Rate Increase Mitigation

## Three R's

- Reinsurance 2014-2016

  - \$12B in 2014; \$8B in 2015 and \$5B in 2016

  - Funded by industry via collection from all employer health insurance insurers and self funded groups; distribution limited to individual market

- Risk Corridors 2014-2016

  - Overall solvency protection for individual and small group market

- Risk Adjustment 2014 ongoing

  - Applies to the individual and small group markets

  - Assess charges on plans with lower than average risk, make payments to plans with higher risk

Medical Loss Ratio (MLR): Minimum % of premium dollars to be spent on claims and activities to improve health care quality

  - 80% individual and small employer market

  - 85% large employer group market

# Exchange / Marketplace



The ACA requires states to determine if they wanted to run a state-based marketplace, or rely on the federally facilitated marketplace

# Where are we? The Utah Model

The ACA provided three options for states for their marketplace model:



HHS runs  
both exchanges

State runs  
both exchanges

HHS “partners”  
with state to  
run both exchanges

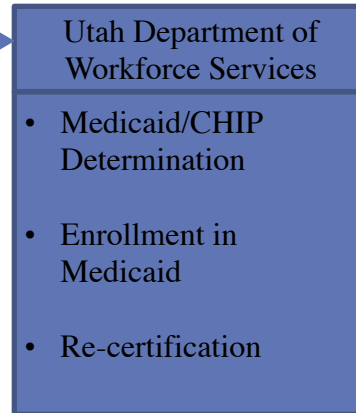
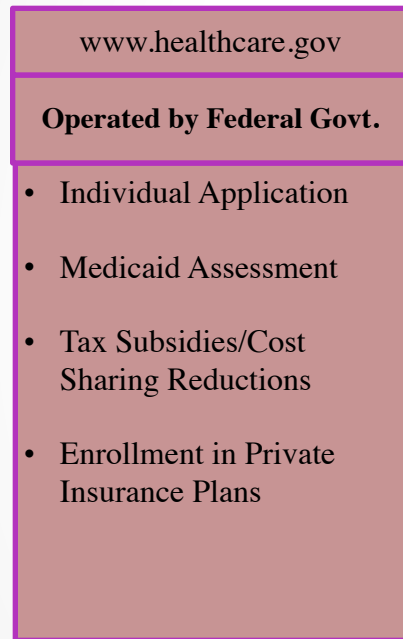
HHS runs individual exchange;  
state runs Utah’s Avenue H as  
the SHOP employer exchange

# Utah's Marketplace Solution



Individual

Private Insurance (with or without subsidies) / Medicaid

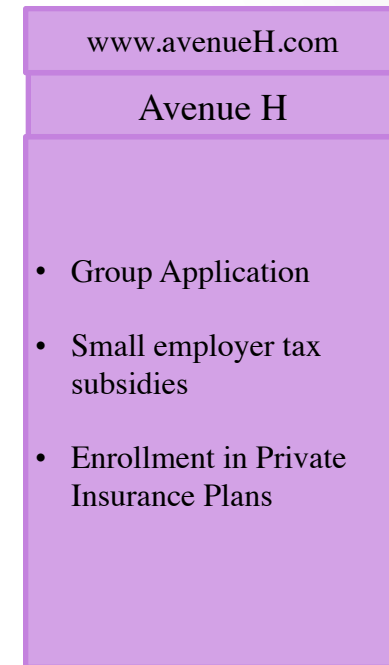


Carriers



Small Business

Private Insurance



# Individual Marketplace

The Individual Marketplace for Utah is the federal government platform. The Marketplace is intended to bring all plans into one forum by establishing common rules regarding the offering and pricing of the plans.

With one Marketplace application, an individual can learn if they are eligible for Medicaid or subsidized insurance premiums, compare insurance plan options side-by-side, and enroll in coverage.

A person can compare plans based on price, benefits, and other features prior to making a choice. Qualified Health Plans (QHPs) are presented in five categories based on cost sharing – bronze, silver, gold, platinum, and catastrophic.



# Advance Premium Tax Credits

The Advanced Premium Tax Credit (APTC) lowers the premium cost for coverage purchased through the Individual Marketplace for certain individuals

Eligibility is based on:

- Household income and family size at the end of the year
- Income between 100% to 400% of the federal poverty level (FPL) (\$23,550 - \$94,200 for a family of 4 in 2013)
- Coverage must be obtained through the Individual Marketplace
- Ineligible for APTC if individual is eligible for government-sponsored coverage, affordable employer-sponsored insurance, or other minimum essential coverage

Amount of APTC depends on:

- Actual household income as a percentage of the FPL and family size
- Sliding scale that increases the taxpayer's own contribution toward the premium cost as household income as a percentage of the FPL increases
- Premium for the second lowest cost silver QHP, adjusted for the age of the covered person



# Cost-Sharing Reductions

Eligibility for reduced cost-sharing reductions is based on:

- Incomes at or below 250% of the federal poverty level (FPL)

- Receiving advanced premium tax credit

- Enrolling in an Individual Marketplace silver-level plan

A family of four whose income is between:

- 100-150% FPL (\$23,550 - \$35,325) will be responsible for paying 6% of covered expenses out-of-pocket, rather than 30%

- 150-200% FPL (\$35,325 - \$47,100) responsible for 13% of expenses

- 200-250% FPL (\$47,100 - \$58,875) responsible for 27% of expenses

People who qualify for cost-sharing subsidies will see their maximum out-of-pocket spending capped

- 100-200% FPL capped at \$2,250/\$4,500 for single/family coverage

- 200-250% FPL capped at \$5,200/\$10,400 for single/family coverage

Members of federally-recognized Indian tribes have no cost sharing if income is below 300% of FPL

# Utah's SHOP: Avenue H

Avenue H is Utah's SHOP (Small Business Health Options Program) Marketplace for small employers, [www.avenueh.com](http://www.avenueh.com)

Defined contribution approach

- No minimum or maximum employer contribution

- Employer pays a flat dollar amount

Pre-tax benefits for employee and employer

Employee choice for all Qualified Health Plans (bronze, silver, gold, platinum)

Plan comparison tools and transparency

Small Employer Premium Tax Credit

Sole proprietors must buy through Individual Marketplace rather than through the SHOP

# Small Employer Premium Tax Credit

Eligible employers that purchase insurance through a SHOP may receive a small business tax credit of up to 50% of the employer's contribution toward insurance premiums.

Non-profit companies can get up to 35% of their contributions in a refundable credit.

Employers may take the small business tax credit for up to two consecutive taxable years.

The amount of credit a small business receives will depend on the number of employees and average wages.

Additional guidance and FAQs available on [www.irs.gov](http://www.irs.gov) (keyword: ACA).

# Avenue H: Participation Rules

Employers are eligible to participate with Avenue H if:

- Business is located in Utah

- Must have 50 or fewer full-time eligible

- Must offer coverage to all full-time employees

Employers must provide a recent Quarterly Wage & Tax Form or other supporting documents

75% employee participation required minus valid waivers

Participation requirements are not enforced for small employer groups enrolling between November 15 - December 15

# Where Consumers Get Help

## Individual Marketplace

Online chat and toll-free call center

Community assistance:

Insurance agents and brokers

Government agencies

\*Navigators

\*Application assisters

\*Certified application counselors

\*new entities created under the ACA

## Avenue H

Call center

Insurance agents and brokers

Navigators

# What is the role of a Navigator?

Conduct public education activities to raise awareness of the availability of qualified health plans

Distribute fair and impartial information about enrollment in qualified health plans and the availability of premium tax credits

Provide referrals to an office of health insurance consumer assistance or ombudsman, or any other appropriate state agencies, for any enrollee with a grievance, complaint, or question regarding their health plan

Provide information in a manner that is culturally and linguistically appropriate to the needs of the population served by the Exchange

# Individual Marketplace Navigators

## Utah Health Policy Project

The Utah Health Policy Project is a nonprofit organization dedicated to lasting solutions to the crisis of the uninsured and rising health care costs. The Utah Health Policy Project will lead the Take Care Utah Navigator Hub that will connect nonprofit community-based organizations with resources on health coverage options

## Utah AIDS Foundation

Utah AIDS Foundation (UAF) is the oldest and largest AIDS service organization in Utah, with over 27 years of experience providing effective, culturally-sensitive services to people living with HIV and populations at high risk for HIV in Utah. UAF will hire two full-time staff to serve as Navigators to educate target communities about Exchanges and to help individuals determine eligibility, understand their options, select, and complete all necessary steps to enroll in a Qualified Health Plan

## National Council of Urban Indian Health

National Council of Urban Indian Health is the only national, membership-based organization dedicated to outreach and education on behalf of Urban Indian Health. It provides training, technical assistance, outreach, and education to Urban Indian Health Programs.

# Looking Forward

2016

Definition of small employer required to expand from 1-50, to 1-100 employees

2017

States permitted to allow businesses with more than 100 employees to purchase coverage in SHOP Marketplace

2018

“Cadillac Tax” – 40% excise tax levied on insurers of employer-sponsored health plans with aggregate values that exceed \$10,200 for individual and \$27,500 for a family. The tax is applied to the amounts that exceed the threshold, and will be indexed for inflation



# Contact Information

Tanji Northrup  
Assistant Commissioner  
Utah Insurance Department  
(801) 538-1801  
tnorthrup@utah.gov  
[www.insurance.utah.gov](http://www.insurance.utah.gov)